

BY-LAW NUMBER 108-22

- of -

THE CORPORATION OF THE COUNTY OF BRANT

A By-law to Control Noise

WHEREAS it is recognized that people will be exposed to Noise in the course of their daily lives;

AND WHEREAS it is recognized that people have a right to and should be provided, to the extent possible, an environment free from unusual, unnecessary or excessive Noise which may unreasonably degrade the quality and tranquility of their life or cause a nuisance;

AND WHEREAS Council is authorized by Sections 10(2), 128 and 129 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, to enact by-laws for prohibiting or regulating noises that are likely to disturb, cause a nuisance, or affect the health and general well-being of the inhabitants of the Municipality;

AND WHEREAS, a local municipality may prohibit the matters described in clause 129 (a) of the Municipal Act, 2001, S.O. c. 25, unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans.

AND WHEREAS, subsection 391(1) of the Municipal Act, 2001, S.O. c. 25, provides that a municipality may impose fees and charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- (c) for the use of its property including property under its control.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE COUNTY OF BRANT ENACTS AS FOLLOWS:

1. **DEFINITIONS**

In this By-law, all italicized words shall have specified meanings and, where those meanings are determined by reference to a specific zoning category, said reference shall be deemed to include any and all site-specific amendments that fall under such category in the referenced zoning by-laws and any successor by-law, and those specified meanings are as follows:

- (a) ***“Agricultural Zone”*** means a zone identified as an Agricultural Zone in the County of Brant Zoning By-Law;

- (b) “**Amusement**” as referenced in Schedule C does not include a *Motorized Conveyance*.
- (c) “**Clerk**” means the Director of Council Services/Clerk, for the Corporation of the County of Brant.
- (d) “**Construction**” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and *Highway* building, concreting, equipment installation and alteration and the structural installation of *Construction* components and materials in any form or for any purpose, and includes any work in connection therewith;
- (e) “**Conveyance**” includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within a building;
- (f) “**Council**” means the Council of the Corporation of the County of Brant;
- (g) “**dBA**” means the sound level in decibels obtained when using a sound level meter with the A-weighting;
- (h) “**Effective Muffling Device**” means a muffler in good working order and in constant operation to prevent excessive or unusual *Noise* or excessive smoke but does not include a cut-out muffler, straight exhaust gutted muffler, Hollywood muffler, by-pass, aftermarket exhaust or other similar device utilized to enhance rather than muffle the sound of a motor vehicle engine.
- (i) “**Heavy Equipment**” means any equipment, tool or device designed or capable of use in *Construction* or demolition, automotive repair or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-Highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- (j) “**Highway**” includes a common and public *Highway*, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;
- (k) “**Institutional Zone**” means a zone identified as an Institutional Zone in the County of Brant Zoning By-Law
- (l) “**Motor Vehicle**” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other *Motor Vehicle* running only upon rails, or a motorized snow vehicle, traction engine farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act, R.S.O. 1990, c. H8, as amended;
- (m) “**Motorized Conveyance**” means a *Conveyance* propelled or driven otherwise than by muscular, gravitational or wind power;

- (n) “**Municipality**” means the land within the geographic limits of the Corporation of the County of Brant;
- (o) “**Noise**” means an unwanted sound likely to disturb;
- (p) “**Point of Reception**” means any point on the premises of a person where sound originating from other than those premises is received;
- (q) “**Residential Use**” includes a house trailer, or a habitable room located in a building or structure that is used by one or more persons for sleeping purposes and which contains, within the same building, sanitary or food preparation facilities for the use of the occupants;
- (r) “**Residential Zone**” means a zone identified as Residential Zone in the County of Brant Zoning By-Law;
- (s) “**Recreation**” means an activity engaged in for entertainment, sport or amusement;
- (t) “**Sound Level Meter**” means an instrument which is sensitive to and calibrated for the measurement of sound.

2. GENERAL PROHIBITION

No person shall emit, cause, suffer or permit the emission of *Noise* resulting from an act listed in Schedule B to this by-law, which *Noise* is clearly audible at a *Point of Reception*.

3. PROHIBITION BY TIME AND PLACE

- (a) No person shall emit, cause, suffer or permit the emission of *Noise* resulting from any act listed in Column 1 of Schedule C to this by-law that is clearly audible at a *Point of Reception* and during the prohibited times, both as indicated, in Columns 2 and 3 of Schedule C.

(b) INTERPRETATION OF SCHEDULE C

The examples contained in brackets in Column 1 of Schedule C are for the purpose of illustration and convenience only and do not form part of this By-law.

4. MOST RESTRICTIVE DEEMED TO APPLY

Where a *Noise* could be construed to be controlled under both section 2 and section 3 of this By-law, the most restrictive provision shall apply.

EXEMPTIONS

5. PUBLIC SAFETY

The provisions of Section 2 and 3 do not apply to the emission of *Noise* in connection with emergency measures undertaken:

- (a) for the immediate health, safety or welfare of the inhabitants; or
- (b) for the preservation or restoration of property unless such *Noise* emission is of a longer duration, or a nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

6. EXEMPTION OF CERTAIN ACTIVITIES

Notwithstanding any other provision of this By-law, this By-law does not apply to a person who emits, causes or permits the emission of *Noise* in connection with any of the special events or activities of a limited duration listed in Schedule D.

7. GRANTING OF EXEMPTIONS BY THE CLERK

- (a) Upon receipt of a written application, the *Clerk* may grant an exemption to provisions of the By-law for a specified period of time, not to exceed six (6) months, subject to such terms and conditions as deemed advisable.
- (b) The application shall be in the form provided and shall include:
 - (i) the name and address of the applicant;
 - (ii) a description of the source of the sound in respect of which an exemption is being sought;
 - (iii) a statement of the section of the by-law from which exemption is sought;
 - (iv) the period of time and location for which the exemption is being sought;
 - (v) the reasons why an exemption is being sought;
- (c) Such application shall be accompanied by proof of publication, at a minimum of forty-five (45) days prior to the event, in a newspaper of general circulation within the applicable service area of the County of Brant, of a notice of intention to apply for an exemption to this by-law, containing the information required by Clauses (i) through (v) hereof, and stating the date upon which the application to the *Clerk* is intended to be made.
- (d) A copy of the application shall be provided to the Municipal Law Enforcement Officer who may conduct a site inspection and prepare comments for the *Clerk* which

also may include details of any complaint history or corrective measures taken to date.

- (e) Written submissions/objections must be received no later than ten (10) days after publication.
- (f) In deciding whether to grant the exemption, the *Clerk* will review the application, the prepared comments and any written submissions.
- (g) The Clerk may impose terms or condition on any application.
- (h) Applications may be referred to Council for consideration.
- (i) Where an exemption is granted, any breach of the terms or conditions renders the exemption null and void.

8. SEVERABILITY

If any section or sections of this By-law or parts thereof shall be found by any Court to be invalid or beyond the power of *Council* to enact, such section or sections or parts thereof shall be deemed to be severable and all other sections or parts of this By-law shall be deemed to be separate and independent therefrom and continue in full force and effect unless and until similarly found and this By-law shall be enacted as such.

9. ENFORCEMENT & PENALTY

- (a) Municipal Law Enforcement Officers employed by the County of Brant and Police Officers who are members of the Ontario Provincial Police are hereby authorized to enforce this By-Law.
- (b) Any person who contravenes any of the provisions of this By-law is guilty of an offence and is subject to the penalty provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P33, as amended as well as section 429 of the *Municipal Act*.
- (c) Where the circumstances constituting an offence under this By-law continue for a period exceeding one half hour (30 minutes), the offence shall be deemed to have been repeated for each incremental one-half hour (30 minute) period and shall constitute a separate offence.

10. INTERPRETATION

This By-law shall be read with all changes to number and gender required by the context.

11. HEADINGS

The headings contained in the body of this By-law do not form part of the By-law but are inserted for convenience of reference only.

12. SCHEDULES

Schedules B, C, and D, attached to this By-law form part thereof.

13. SHORT TITLE

The short title of this By-law is the “Noise Control By-law”

14. REPEAL

By-law #185-00 as amended is hereby repealed upon this By-law coming into force and effect.

15. EFFECTIVE DATE

This By-law comes into force and effect upon being finally passed.

READ a first and second time, this 27th day of September 2022

READ a third time and finally passed in Council, this 27th day of September 2022.

THE CORPORATION OF THE COUNTY OF BRANT

David Bailey, Mayor

Alysha Dyjach, Clerk

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SCHEDULE B
Noise - General Prohibitions

1. The operation of any motor vehicle, combustion engine, or pneumatic device without an *Effective Muffling Device*.
2. The persistent barking, calling or whining or other persistent *Noise* making by any domestic pet or any other animal kept or used for any purpose other than agriculture.
3. The operation of any *Motor Vehicle* on a highway if the motor vehicle is emitting a sound from the exhaust outlet exceeding 92 *dba* as measured by means of a *Sound Level Meter* set to slow time weighting, while the engine is at idle.
4. The operation of any *Motor Vehicle* engine for a continuous period exceeding five minutes, while such vehicle is stationary unless:
 - (a) the original manufacturer, in the applicable circumstance, specifically recommends a longer idling period for the normal and efficient operation of the vehicle and the recommended period has not been exceeded; or
 - (b) the idling of the *Motor Vehicle* engine is necessary to perform a basic function of the vehicle, including but not limited to, the operation of ready-mixed concrete trucks, lift platforms or refuse compactors and the performance of this basic function is in compliance with this by-law; or
 - (c) the idling of the *Motor Vehicle* engine is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, provided the *Motor Vehicle* engine remains idling only for the period of time that the work is being performed and the work is being performed other than for profit or barter; or
 - (d) the idling of the *Motor Vehicle* engine is necessary to operate the heating or refrigeration equipment that protects the safety and welfare of the occupants or preserves perishable cargo and the *Motor Vehicle* engine remains operating only for the period of time that the vehicle is being actively loaded or unloaded in compliance with this by-law
5. The operation of any refrigeration unit on a *Motor Vehicle* or trailer for a continuous period exceeding 5 minutes, while the *Motor Vehicle* or trailer is stationary, unless said *Motor Vehicle* or trailer is being actively loaded or unloaded in compliance with this by-law.

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SCHEDULE B

Noise - General Prohibitions

6. (a) The *Noise* from or created by any radio, compact disc player, stereo, P.A. system or any musical or sound producing instrument or device when the *Noise* is from a source other than a commercial establishment or a public or municipal hall and the device is played in such manner or with such volume as to annoy or disturb any person at a *Point of Reception*.

(b) Despite section 6(a) of Schedule B, where the device or instrument as described above is located in a commercial establishment or public or municipal hall, the provisions of Schedule C apply.
7. The discharge of firearms except when discharged for legal hunting, an agricultural purpose, or at an approved firearms firing range.
8. The operation of any *motorized conveyance*, at any time, for a period of time exceeding five minutes in any given hour, except where the operation is for a purpose other than *recreation* or except as otherwise permitted in clause 4, of Schedule "B" of this By-law.

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SCHEDULE C
Prohibitions by Time and Place

<u>COLUMN 1</u> Activity Creating Noise		PROHIBITED TIMES	
		<u>COLUMN 2</u>	<u>COLUMN 3</u>
		<i>POINT OF RECEPTION RESIDENTIAL ZONE OR RESIDENTIAL USE IN INSTITUTIONAL ZONE</i>	<i>POINT OF RECEPTION RESIDENTIAL USE IN ANY OTHER ZONE</i>
1.	Operation of <i>Heavy Equipment</i>	Mon–Sat 12:00 midnight–7:00 am 7:00 pm–12:00 midnight Sun/Stat all day	Mon–Sat 12:00 midnight–7:00 am 7:00 pm–12:00 midnight Sun/Stat all day
2.	Auditory signaling devices (bells, horns, sirens) except those activated when required by law	Mon–Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight	Mon–Sat 12:00 midnight–6:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight
3.	Outdoor paging systems for industrial, commercial, agricultural purposes	Mon–Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight	Mon–Sat 12:00 midnight–6:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight
4.	Loading, unloading, delivering, packing, otherwise handling containers, products, materials, refuse	Mon–Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight	Mon–Sat 12:00 midnight–6:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight
5.	Powered rail cars on property not owned by railway governed by Canada Railway Act (industrial rail siding)	Mon–Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight	Mon–Sat 12:00 midnight–6:00 am 9:00 pm–12:00 midnight Sun/Stat 12:00 midnight–10:00 am 5:00 pm–12:00 midnight
6.	Commercial or industrial operational <i>Noises</i> which are permitted to escape through open doors, windows or apertures	Mon–Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 9:00 pm–12:00 midnight	Mon–Sat 12:00 midnight–6:00 am 9:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 9:00 pm–12:00 midnight

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SCHEDULE C
Prohibitions by Time and Place

7.	Model airplanes or other <i>Amusements</i> using combustion engines	Mon-Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 9:00 pm–12:00 midnight	Mon-Sat 12:00 midnight–7:00 am 9:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 9:00 pm–12:00 midnight
8.	Detonation of fireworks in compliance with the Fireworks By-law	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight
9.	<i>Motorized Conveyances</i> when operating other than on a <i>Highway</i>	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight
10.	Operation of motorized or non-motorized tools	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight
11.	Yelling, shouting, whistling, singing, hooting	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight	Mon-Sat 12:00 midnight–7:00 am 11:00 pm–12:00 midnight Sun 12:00 midnight–9:00 am 11:00 pm–12:00 midnight
12.	Any radio, compact disc player, stereo, P.A. system or any musical or sound producing instrument or device in a commercial establishment, or public or municipal hall	Mon-Thurs –12 midnight-7:00 am Mon-Thurs - 11:00 pm –12 midnight Fri-Sat 12:00 midnight-7:00 am Sun 12:00 midnight–10:00 am 11:00 pm–12:00 midnight	Mon-Thurs 11:00 pm – 12 midnight Fri-Sat 12:00 midnight-7:00 am Sun 12:00 midnight 10:00 am 11:00 pm–12:00 midnight

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SCHEDULE D
Exemptions of Certain Activities

1. Any parade authorized by *Council*.
2. Use of bells or chimes normally associated with religious and social activities.
3. Any carnival, midway, circus, sporting event, recreational, musical, entertainment, festival or other event authorized by *Council*.
4. Any sporting, recreational, musical, entertainment, festival, or other event or performance, in a municipal park, on a municipal road, or any other place, provided the specific written permission of *Council* has been obtained.
5. The detonation of fireworks authorized by the Fire Chief.
6. Normal farming operations as governed by the Farming and Food Production and Promotion Act.
7. Authorized non –emergency work carried out by or on behalf of the County of Brant or Brant County Power, unless such *Noise* emission is of a longer duration, or a nature more disturbing, than is reasonably necessary.
8. Annual fall fairs operated by an Agricultural Society on property owned by an Agricultural Society.
9. Motorcycle events authorized by the Paris Agricultural Society and operated at the Paris Fairgrounds, subject to the time restrictions provided for in item 9 of Schedule C to this by-law.